

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REQUEST FOR CONFIDENTIAL TREATMENT OF)
THE COST SUPPORT MATERIAL FILED WITH THE)
CONTRACT WITH UNIVERSITY OF LOUISVILLE) CASE NO. 96-145
FOR PATHLINKSM SERVICE FILED WITH THE)
COMMISSION ON APRIL 10, 1996)

O R D E R

This matter arising upon petition of BellSouth Telecommunications, Inc. ("BellSouth") filed April 10, 1996 pursuant to 807 KAR 5:001, Section 7, for confidential protection of the cost support data developed in connection with BellSouth's proposed contract for PathLinkSM Service with the University of Louisville on the grounds that disclosure of the information is likely to cause BellSouth competitive injury, and it appearing to this Commission as follows:

BellSouth has contracted with the University of Louisville to provide PathLinkSM Service. This service allows customers to transmit data over ISDN channels through the exchange network. In support of its application to approve the agreement, BellSouth has provided cost data which it seeks to protect as confidential.

The information sought to be protected is not known outside of BellSouth and is not disseminated within BellSouth except to those employees who have a legitimate business need to know and act upon the information. BellSouth seeks to preserve and protect the confidentiality of the information through all appropriate means.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That subsection of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

PathLinkSM Service is an alternative to other local exchange service offerings, private line/data services and dedicated private line networks. BellSouth's competitors for PathLinkSM Service are cellular carriers who may also provide cellular data services and will soon include providers of personal communications services, cable TV providers and alternate access providers. BellSouth's competitors for private lines/data services and networks are interexchange carriers, resellers and vendors of microwave, digital radio, fiber, VSAT, and other wireless equipment and services. Disclosure of the information sought to be protected would enable competitors to determine BellSouth's cost and contribution from the service which they could use in marketing their competing services

to the detriment of BellSouth. Therefore, disclosure of the information is likely to cause BellSouth competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the cost data filed in support of the proposed contract with the University of Louisville for PathLinkSM Service, which BellSouth has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 14th day of May, 1996.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt
Chairman

E. J. O'Connell
Vice Chairman

Robert M. Davis
Commissioner

ATTEST:

Don Mills
Executive Director